

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

REBECCA KLUG,

Plaintiff,

v.

**Civil Action No.: 3:18-CV-00711
Judge Robert C. Chambers**

**MARSHALL UNIVERSITY
BOARD OF GOVERNORS,
and FARID B. MOZAFFARI, an individual,**

Defendants.

AFFIDAVIT OF DR. DAVID DENNING

STATE OF WEST VIRGINIA,

COUNTY OF CABELL, TO-WIT:

I, David Denning, MD, FACS, FCCM, being over 18 years of age and being of sound mind,
on oath depose and voluntarily state and warrant as follows:

1. I am a physician licensed to practice medicine in West Virginia.
2. I am currently employed as the Residency Program Director, Professor, and Chair for the Department of Surgery at the Marshall University Joan C. Edwards School of Medicine.
3. I was employed as Chair for the Department of Surgery and as a Professor in the Department of Surgery at the Marshall University Joan C. Edwards School of Medicine during Dr. Klug's time in the Surgery Resident Program.

4. I served on the Clinical Competency Committee for the decision to not renew Dr. Klug's contract.
5. Dr. Klug was a PGY1 with the Marshall University Joan C. Edwards School of Medicine from July 1, 2013 to June 30, 2014.
6. Dr. Klug was a categorical PGY2 with the Marshall University Joan C. Edwards School of Medicine from July 1, 2014 to June 30, 2015 and from July 1, 2015 to June 30, 2016.
7. Dr. Klug was a post-doctoral research assistant with the Marshall University Joan C. Edwards School of Medicine from July 1, 2016 to December 31, 2018.
8. Dr. Klug never complained to me regarding sexual harassment, a hostile work environment, or any other type of sex discrimination.
9. During Dr. Klug's residency or employment with Marshall University Joan C. Edwards School of Medicine, or thereafter, I did not ever witness or hear of any gender or disability related actions taken against Dr. Klug.
10. I have never encountered any bias against women in my work in the Marshall University Joan C. Edwards School of Medicine, or in the Surgery Residency Program specifically.
11. Dr. Klug was a poor academic performer during her time in the surgery residency program, repeatedly scoring in the bottom 1st percentile on the ABSITE exam.
12. These low ABSITE scores qualified Dr. Klug for an Educational Enhancement Plan and a serious remediation plan.
13. As a member of the Clinical Competency Committee for the decision to not renew Dr. Klug's contract, I had access to her academic information, including her ABSITE

scores, evaluations by other physicians concerning her clinical performance, complaints against her, discussions by other members of the Clinical Competency Committee, and other information related to Dr. Klug's surgical residency.

14. The information I reviewed and heard illustrated a surgical resident candidate that had insufficient knowledge for a surgeon and a record of failing to take the necessary steps to cure her deficiencies.

15. The reviews by physicians illustrated that Dr. Klug had problems with communication with her peers and unsound clinical judgment with the hallmark being a lack of fundamental knowledge.

16. Due to her poor academic performance, Dr. Klug was placed on an Educational Enhancement Plan and serious remediation.

17. Dr. Klug never completed the remediation plan, which was discussed extensively by her mentor, Dr. Amanda Arrington at the Clinical Competency Committee meeting on April 6, 2016.

18. Dr. Klug's contract was ultimately non-renewed because she failed to meet performance benchmarks, both academically and clinically.

19. The issue that ultimately drove the decision by the Clinical Competency Committee was the belief that Dr. Klug did not possess the ability or desire to become a safe and effective surgeon practicing medicine in the public, based on her academic and clinical performance.

20. The Clinical Competency Committee found no evidence of discrimination in the decision to not renew Dr. Klug's contract.

21. At no point did the Clinical Competency Committee consider the gender of Dr. Klug in judging her appeal.

22. Dr. Mozaffari made significant improvements to the General Surgery Program while in charge.

23. At no time during Dr. Klug's residency or employment with Marshall University Joan C. Edwards School of Medicine, or thereafter, did I ever witness or hear of any discrimination by Dr. Mozaffari.

24. Following the death of her husband, I met with Dr. Klug to console her and bring her food.

25. Following the death of her husband, I told Dr. Klug to take as much time as she needed before returning to work.

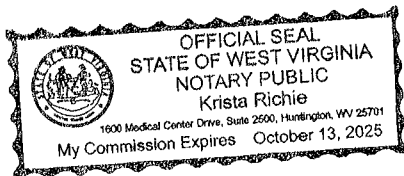
26. I do not believe Dr. Klug could ever practice safely and independently as a general surgeon.

Further the affiant sayeth naught.

David A. Denning MD
Dr. David A. Denning

Taken, subscribed, and sworn to, before me this 15 day of March, 2021.

My commission expires October 13, 2025.



Krista Richie
Notary Public